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ORIGINAL

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

FEB 28 2006

at _____ o'clock and _____ min _____ M
SUE BEITIA, CLERK

Attorneys for Defendants WILLIAM P. BADUA,
JEFFREY OMAI and SPENCER ANDERSON

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

OFELIA COLOYAN,

Plaintiff,

vs.

WILLIAM P. BADUA;
JEFFREY OMAI;
SPENCER ANDERSON;
NEIL PANG;
and DOES 5-10,

Defendants.

) CIVIL NO. CV03-476 KSC
)
) DEFENDANTS
) WILLIAM P. BADUA,
) JEFFREY OMAI AND
) SPENCER ANDERSON'S
) OPPOSITION TO PLAINTIFF'S
) MOTION IN LIMINE RE
) EXCLUSION OF ALL EVIDENCE OF
) INJURIES TO ANY OF THE
) DEFENDANTS THAT OCCURRED
) IN THE LINE OF DUTY;
) CERTIFICATE OF SERVICE
)
) Date: March 13, 2006
) Time: 1:30 p.m.
) Judge: Honorable Kevin S.C. Chang
) TRIAL DATE: WEEK OF
) MARCH 14, 2006

DEFENDANTS WILLIAM P. BADUA, JEFFREY OMAI AND
SPENCER ANDERSON'S OPPOSITION TO PLAINTIFF'S MOTION IN
LIMINE RE EXCLUSION OF ALL EVIDENCE OF INJURIES TO ANY OF
THE DEFENDANTS THAT OCCURRED IN THE LINE OF DUTY

Come Now Defendants WILLIAM P. BADUA, JEFFREY OMAI and SPENCER ANDERSON (hereinafter referred to as "Defendants"), by and through their attorneys, Carrie K.S. Okinaga, Corporation Counsel, and Kendra K. Kawai and Marie Manuele Gavigan, Deputies Corporation Counsel, and file this memorandum in opposition to Plaintiff's motion, in limine, to exclude all evidence of injuries to any of the Defendants that occurred in the line of duty. For the reasons stated herein, the Defendants request that Plaintiff's motion, in limine, be denied based on the following.

I. PLAINTIFF'S MOTION IN LIMINE

Plaintiff seeks to exclude "any evidence or any reference as to the past and/or present injury received by any Defendant in the line of duty as a police officer". Plaintiff's Motion in Limine Re Exclusion of All Evidence of Injuries to Any of the Defendants that Occurred in the Line of Duty, page 3.

In Plaintiff's Memorandum in Support of her Motion, Plaintiff asserts that there are two issues in this case to be litigated at trial.¹

¹ Defendants disagree with Plaintiff's statement that there are two issues. Defendants assert that there is only one issue in this case, that being whether Plaintiff consented to Defendants' entry to search her home to verify that her son

II. DISCUSSION

Plaintiff identifies various witnesses, including but not limited to, Investigator Joe Cabrejos and Dexter Carrasco to testify as to their attempts to locate the whereabouts of Officer Jeffrey Omai for purposes of service of process. In response, Defendants filed a motion, in limine, to preclude such testimony at trial as it is irrelevant in determining the merits of this case, i.e. the issue of whether Plaintiff's constitutional rights were violated by Defendants.

If this Court grants Defendants motion, in limine, to preclude such testimony and Plaintiff does not "open the door" as to the issue regarding Defendants' injuries in the line of duty, Defendants do not object to the request made in Plaintiff's motion. However, if this Court allows testimony regarding issues about service of the complaint and/or other questioning that may result in a response that would discuss any of the Defendants' injuries while in the line of duty, Defendants assert that such testimony is vital to their defense.

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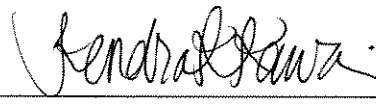
was not present within the residence. Defendants will address this issue in their trial brief.

III. CONCLUSION

For all the foregoing reasons, Defendant respectfully request that this Honorable Court deny Plaintiff's Motion in Limine Re Exclusion of All Evidence of Injuries to Any of the Defendants that Occurred in the Line of Duty. However, if this Court grants Defendants' motion, in limine, precluding testimony regarding service of the complaint upon each of the Defendants in this matter and Plaintiff does not "open the door" as to the issue regarding Defendants' injuries in the line of duty, Defendants do not object to the request in said motion.

DATED: Honolulu, Hawai'i, February 28, 2006.

CARRIE K.S. OKINAGA
Corporation Counsel

By: 
KENDRA K. KAWAI
MARIE MANUELE GAVIGAN
Deputies Corporation Counsel

Attorney for Defendants
WILLIAM P. BADUA
JEFFREY OMAI and
SPENCER ANDERSON

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI'I

| | | |
|-------------------|---|------------------------|
| OFELIA COLOYAN, |) | CIVIL NO. 03-476 KSC |
| |) | |
| Plaintiff, |) | CERTIFICATE OF SERVICE |
| |) | |
| vs. |) | |
| |) | |
| WILLIAM P. BADUA; |) | |
| JEFFREY OMAI; |) | |
| SPENCER ANDERSON; |) | |
| NEIL PANG; |) | |
| and DOES 5-10, |) | |
| |) | |
| Defendants. |) | |
| |) | |
| |) | |
| |) | |

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the within was duly served by hand
delivery to the following individuals at their addresses shown below on
February 28, 2006:

JACK SCHWEIGERT, ESQ.
550 Halekauwila Street, Room 309
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and


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and

RORY SOARES TOOMEY
1088 Bishop Street, Suite 1004
Honolulu, Hawaii 96813

Attorneys for Plaintiff
OFELIA COLOYAN

DATED: Honolulu, Hawai'i, February 28, 2006.

CARRIE K.S. OKINAGA
Corporation Counsel

By: 
KENDRA K. KAWAI
MARIE MANUELE GAVIGAN
Deputies Corporation Counsel

Attorney for Defendants
WILLIAM P. BADUA
JEFFREY OMAI and
SPENCER ANDERSON